



**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
**DISABILITY COMPENSATION DIVISION**  
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December 27, 2004

TO: All Interested Parties

FROM: Gary S. Hamada, Administrator

SUBJECT: AMENDMENTS TO CHAPTER 12-15, HAWAII ADMINISTRATIVE RULES  
RELATING TO THE WORKERS' COMPENSATION MEDICAL FEE  
SCHEDULE

The amendments to Chapter 12-15, Hawaii Administrative Rules Relating to the Workers' Compensation Medical Fee Schedule, were approved by the Governor and are effective January 1, 2005. The rules, which are summarized here for convenience only, are attached.

1. Section 12-15-1 Definitions. This amendment modifies the definition of "Provider of Service" to mean any person or entity who is licensed, certified, recognized or registered by the Department of Commerce and Consumer Affairs (DCCA) and renders medical care, medical service, or medical supplies in accordance with Chapter 386, HRS. This amendment also modifies the definition of "Therapist" by replacing the name of the "American Occupational Therapy Association" with the "National Board for Certification in Occupational Therapy" as the certifying organization for occupational therapists.
2. Section 12-15-36 Assistants to providers of service. This amendment allows Certified Occupational Therapy Assistants, who meet the DCCA's requirements under Chapter 457G, HRS, to provide services under the direction of an occupational therapist and be compensated at sixty percent (60%) of the fees authorized by section 12-15-90.
3. Section 12-15-55 Drugs, supplies, and materials. This amendment requires reimbursement of supplies not to exceed cost plus forty percent (40%). Shipping charges and taxes are reimbursable.

4. Section 12-15-80 Reports of providers of service. This amendment changes "health care provider" to "provider of service" in subsection (c), to require all providers of service and not only physicians, to comply with Chapter 386, HRS, and its related rules.
5. Section 12-15-90 Workers' compensation medical fee schedule. This amendment specifies that if a fee is not listed in the Medicare Fee Schedule or in the Workers' Compensation Supplemental Medical Fee Schedule, the provider of service shall charge a fee that cannot exceed the lowest fee received by the provider of service, for the same service rendered to private patients. The amendment will also allow the Health Care Financing Administration Common Procedure Coding System (HCPCS) alphabet codes, adopted by Medicare, be allowed for "injections" and "durable medical equipment" only.
6. Exhibit A. Certain codes in Title 12, Chapter 15, Workers' Compensation Supplemental Medical Fee Schedule, are amended.

Attachment

STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Amendments to Chapter 12-15  
Hawaii Administrative Rules

November 15, 2004

**SUMMARY**

1. §12-15-1 is amended.
2. §12-15-36 is amended.
3. §12-15-55 is amended.
4. §12-15-80 is amended.
5. §12-15-90 is amended.
6. Exhibit A is amended.

DEPT. OF LABOR AND  
INDUSTRIAL RELATIONS  
DIRECTOR'S OFFICE  
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§12-15-1 Definitions. As used in this chapter:

"Advisory panel" means the advisory panel of health care providers appointed by the director pursuant to section 386-27, HRS.

"Appellate board" shall be as defined in section 386-1, HRS.

"Attending physician" means a physician who is primarily responsible for the treatment of a work injury. There shall be only one attending physician. In the event an injured employee is treated by more than one physician in accordance with section 12-15-40, the employee shall designate a physician as the attending physician.

"Bad faith," for the purposes of section 386-27, HRS, and this chapter, requires a finding of a fraudulent, malicious, dishonest, or frivolous act or omission. Mere carelessness, bad judgment, or ordinary negligence, in and of themselves, do not constitute bad faith.

"Department" shall be as defined in section 386-1, HRS.

"Director" shall be as defined in section 386-1, HRS.

"Disability" shall be as defined in section 386-1, HRS.

"Disqualified health care provider" means a health care provider barred under section 386-27, HRS, from providing health care services to a person who has suffered a work injury.

"Employee" shall be as defined in section 386-1, HRS.

"Employer," as defined in section 386-1, HRS, includes a self-insured employer or the self-insured employer's adjuster or designated representative unless clearly indicated otherwise, the insurer of an employer, or an employer who has failed to comply with section 386-121, HRS.

"Employer's designated representative," for the purpose of section 386-31(b)(1), HRS, shall include:

- (1) A self-insured employer's adjuster or attorney of record;



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- (2) An insured employer's insurer, adjuster, or attorney of record; or
- (3) The adjuster or attorney of record of an uninsured employer.

"Health care provider" shall be as defined in section 386-1, HRS.

"Medical care," "medical services," or "medical supplies" shall be as defined in section 386-1, HRS.

"Medical Fee Schedule" refers to the Medicare Resource Based Relative Value Scale System applicable to Hawaii and the Workers' Compensation Supplemental Medical Fee Schedule, Exhibit A, at the end of this chapter.

"Physician" shall be as defined in section 386-1, HRS.

"Provider of service" means any person or entity who is licensed, certified, recognized, or registered with the Department of Commerce and Consumer Affairs and who renders medical care, medical services, or medical supplies in accordance with chapter 386, HRS.

"Specialist" means a physician or surgeon who holds a certification as a diplomate issued by a specialty board approved by the American Medical Association or the American Dental Association.

"Therapist" means a duly registered physical therapist or an occupational therapist certified by the National Board for Certification in Occupational Therapy, who renders therapy prescribed by a physician.

"This statute" or "the statute" means chapter 386, HRS, unless otherwise specified.

"Treatment" is defined as a visit to a provider of service for the injury excluding consultations.

"Unqualified health care provider" means a health care provider who is not qualified by the director under section

386-27, HRS, to provide health care services to a person who has suffered a work injury.

"Work injury" shall be as defined in section 386-1, HRS. [Eff 1/1/96; am

DEC 13 2004

] (Auth: HRS §§386-



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21, 386-26, 386-27, 386-72) (Imp: HRS §§386-1, 386-2,  
386-21, 386-23, 386-27)



§12-15-36

§12-15-36 Assistants to providers of service.

(a) Providers of service may have treatment in their discipline carried out by persons certified or licensed to provide such service.

(b) Fees for services provided by licensed physician assistants as recognized pursuant to chapter 453, and registered nurses as recognized pursuant to chapter 457, shall be eighty-five per cent of the fees authorized by section 12-15-90.

(c) Physical therapists may have treatment in their discipline carried out by physical therapist assistants as recognized pursuant to 461J-3(e). The physical therapist assistants shall be compensated at sixty per cent of the fees authorized by section 12-15-90.

(d) Occupational therapists may have treatment in their discipline carried out by certified occupational therapy assistants as recognized pursuant to chapter 457G. The certified occupational therapy assistants shall be compensated at sixty per cent of the fees authorized by section 12-15-90.

(e) The qualifications of assistants to providers of service must be identified on the bill for service for each service performed by an assistant. Fees that fail to identify services performed by assistants shall be denied. [Eff 1/1/96; am 12/17/01; am **DEC 13 2004**] (Auth: HRS §§386-21, 386-26, 386-72) (Imp: HRS §§386-21, 386-26)



§12-15-55 Drugs, supplies, and materials. (a) Charges for prescribed drugs, supplies, or materials for the use of the injured employee shall be separately listed and certified by the provider, or a duly authorized representative, that such charges for drugs, supplies, or materials were required and prescribed for the industrial injury.

(b) Dietary supplements such as minerals and vitamins shall not be reimbursable unless a specific compensable dietary deficiency has been clinically established in the injured employee as a result of the industrial injury.

(c) Payment for prescriptive drugs will be made at the average wholesale price as listed in the American Druggist Red Book plus forty per cent of the average wholesale price when sold by a physician, hospital, pharmacy, or provider of service other than a physician. Billings for prescriptive drugs must include the national drug code number listed in the current American Druggist Red Book followed by the average wholesale price listed at time of purchase by the provider of service. Approved generics shall be substituted for brand name pharmaceuticals unless the prescribing physician certifies no substitution is permitted because the injured employee's condition will not tolerate a generic preparation.

(d) Payment for supplies shall not exceed cost plus forty percent. Shipping charges and taxes are reimbursable.

(e) Charges for orthotic, prosthetic, and durable medical equipment include fees for adjusting and fitting services and shall not exceed one hundred ten per cent of fees allowed by Medicare's fee schedule for durable medical equipment applicable to Hawaii. Beginning January 1, 2005 and each calendar year thereafter, the Medicare Fee Schedule in effect as of January 1 of that year shall be the effective fee schedule for that calendar year. [Eff 1/1/96; am



\$12-15-55

12/17/01; am **DEC 13 2004** ] (Auth: HRS §§386-26,  
386-72) (Imp: HRS §§386-21, 386-26)



\$12-15-80 Reports of providers of service. (a)  
Any provider of service required by chapter 386, HRS, this chapter, or any related rules to make and submit reports of an injury and treatment shall:

- (1) Submit those reports to the director and the self-insured employer, or the insurer of the employer when the employer is not self-insured, whichever is applicable; and
- (2) Itemize its statement of services rendered in a manner showing the date of injury, diagnosis, date of each visit or service, the appropriate code number used as the basis for the charge, and the fee not to exceed the maximum allowed under the medical fee schedule. No service charge for preparing and submitting reports required by section 386-96, HRS, and any related rules shall be allowed.
- (3) Interim WC-2 reports shall be submitted monthly with the corresponding billing invoice, if applicable, to the employer and shall include the following:
  - (A) Current diagnosis and prognosis;
  - (B) Complete information as to the nature of the examination(s) and treatments performed, dates of those treatments, and the results obtained within the current reporting period;
  - (C) A complete listing of all tests performed within the current reporting period and the results of the tests;
  - (D) A statement of whether the injured employee is improving, worsening, or if "medical stabilization" has been reached; and
  - (E) Dates of disability, work restrictions, if any, and return to work date.
- (4) When an injured employee is returned to full-time, regular, light, part-time, or



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restricted work, the attending physician shall submit a report to the employer within seven calendar days indicating the date of release to work or medical stabilization.

(b) Interim WC-2 reports and all medical documentation shall be submitted by the employer to the director upon submission of a "Request For Hearing" or within ten calendar days of a request by the director. Any party who fails to furnish medical reports within ten calendar days after being requested by the director may be subject to penalties pursuant to section 386-97.5, HRS.

(c) The repeated failure of a physician, surgeon, hospital, or provider of service to comply with chapter 386, HRS, and any related rules shall be a reasonable basis for an employer to refuse to pay or withhold payment for services rendered. [Eff 1/1/96; am 11/22/97; am 12/17/01; am **DEC 13 2004** ] (Auth: HRS §§386-26, 386-27, 386-72) (Imp: HRS §§386-21, 386-26, 386-27, 386-96)



§12-15-90 Workers' compensation medical fee schedule. (a) Charges for medical services shall not exceed one hundred ten per cent of participating fees prescribed in the Medicare Resource Based Relative Value Scale System fee schedule (Medicare Fee Schedule) applicable to Hawaii or listed in exhibit A, located at the end of this chapter and made a part of this chapter, entitled "Workers' Compensation Supplemental Medical Fee Schedule", dated January 1, 2005. The Medicare Fee Schedule in effect on January 1, 1995 shall be applicable through June 30, 1996. Beginning July 1, 1996 and each calendar year thereafter, the Medicare Fee Schedule in effect as of January 1 of that year shall be the effective fee schedule for that calendar year.

(b) If maximum allowable fees for medical services are listed in both the Medicare Fee Schedule and the Workers' Compensation Supplemental Medical Fee Schedule, dated January 1, 2005, located at the end of this chapter as exhibit A, charges shall not exceed the maximum allowable fees allowed under the Workers' Compensation Supplemental Medical Fee Schedule, dated January 1, 2005, located at the end of this chapter as exhibit A.

(c) If the charges are not listed in the Medicare Fee Schedule or in the Workers' Compensation Supplemental Medical Fee Schedule, dated January 1, 2005, located at the end of this chapter as exhibit A, the provider of service shall charge a fee not to exceed the lowest fee received by the provider of service for the same service rendered to private patients. Upon request by the director or the employer, a provider of service shall submit a statement to the requesting party, itemizing the lowest fee received for the same health care, services, and supplies furnished to any private patient during the one-year period preceding the date of a particular charge. Requests shall be submitted in writing within twenty calendar days of receipt of a



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questionable charge. The provider of service shall reply in writing within thirty-one calendar days of receipt of the request. Failure to comply with the request of the employer or the director shall be reason for the employer or the director to deny payment.

(d) Fees listed in the Medicare Fee Schedule shall be subject to the current Medicare Fee Schedule bundling and global rules. The Health Care Financing Administration Common Procedure Coding System (HCPCS) alphabet codes adopted by Medicare will not be allowed, except for injections and durable medical equipment, unless specifically adopted by the director.

(e) Providers of service will be allowed to add the applicable Hawaii general excise tax to their billing. [Eff 1/1/96; am 1/1/97; am 11/22/97; am 12/17/01; am **NFC 13 2004** ] (Auth: HRS §§386-21, 386-26, 386-72) (Imp: HRS §§386-21, 386-26)